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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMMY MORGAN,

 Petitioner,

 v.

T. TUSINO, Warden,

 Respondent.

No. 2:20-cv-00605 GGH P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner is a federal prisoner proceeding in pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner has not filed an in forma pauperis affidavit or paid the required filing fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a). Nevertheless, the undersigned will recommend dismissal of the pending petition as duplicative.

“It is well established that a district court has broad discretion to control its own docket, and that includes the power to dismiss duplicative claims.” M.M. v. Lafayette Sch. Dist., 681 F.3d 1082, 1091 (9th Cir. 2012) (citing Adams v. California Dep't of Health Servs., 487 F.3d 684, 688-89 (9th Cir. 2007). “After weighing the equities of the case, the district court may exercise its discretion to dismiss a duplicative later-filed action, to stay that action pending resolution of the previously filed action, to enjoin the parties from proceeding with it, or to consolidate both actions.” Adams, 487 F.3d at 688. “Plaintiffs generally have no right to maintain two separate

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1 actions involving the same subject matter at the same time in the same court and against the same
2 defendant.” Id. (citation omitted).

3 In the instant case, petitioner challenges his 2019 conviction in the United States District
4 Court for the Eastern District of California for possession of a firearm by a felon. ECF No. 1.
5 Review of the court’s records indicate that petitioner has a habeas petition challenging the same
6 conviction that is currently pending in case Morgan v. Tusino, 2:20-cv-00603-CKD. In “assessing
7 whether the second action is duplicative of the first, we examine whether the causes of action and
8 relief sought, as well as the parties or privies to the action, are the same.” Adams, 487 F.3d at
9 689. Here, not only are the claims and relief sought identical, the pending petition appears to be
10 an exact copy of petitioner’s previous petition. Compare ECF No. 1, with Morgan v. Tusino,
11 2:20-cv-00603-CKD, at ECF No. 1. Petitioner includes additional support and exhibits, but the
12 petition itself is the same. Compare ECF No. 1 at 1-8, with Morgan v. Tusino, 2:20-cv-00603-
13 CKD, at ECF No. 1 at 1-8. Accordingly, the undersigned finds this petition for writ of
14 habeas corpus should be dismissed as duplicative. To the extent that petitioner is seeking to
15 pursue his remedies with respect to his 2019 conviction in the United States District Court for the
16 Eastern District of California, petitioner must do so in his initial habeas proceeding.

17 Petitioner may seek to add the additional support referenced above by filing a motion to
18 add the material in his Morgan v. Tusino, 2:20-cv-00603-CKD action.

19 IT IS HEREBY ORDERED that:

- 20 1. Petitioner’s motion for emergency hearing (ECF No. 2) and petitioner’s motion for
21 issuance of subpoena duces tecum (ECF No. 3) are denied as moot; and
- 22 2. The Clerk of the Court randomly assign a district judge to this action.

23 Further, IT IS HEREBY RECOMMENDED that petitioner’s writ for habeas corpus be
24 dismissed as duplicative.

25 These findings and recommendations are submitted to the United States District Judge
26 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
27 after being served with these findings and recommendations, any party may file written
28 objections with the court and serve a copy on all parties. Such a document should be captioned

1 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
2 objections shall be filed and served within fourteen days after service of the objections. The
3 parties are advised that failure to file objections within the specified time may waive the right to
4 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

5 Dated: April 1, 2020

6 /s/ Gregory G. Hollows
7 UNITED STATES MAGISTRATE JUDGE
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